

Appl. No. : 10/065,120
Filed : September 18, 2002

REMARKS

Reconsideration and allowance of the above-referenced application is respectfully requested.

In response to the rejection, claims 9, 20 and 31 have been amended, and multiple claims have been canceled.

Claims 1-8 stand rejected under 35 U.S.C. 103 as allegedly being unpatentable over any of Lemelson or Zellner or Moles in view of Seiple. This contention is respectfully traversed, and it is respectfully suggested that the rejection does not meet the Patent Office's burden of providing a *prima facie* showing of unpatentability.

Claim 1 requires a cellular telephone which determines its position and reports information, along with an override control that is actuated to enhance privacy and which when actuated produces a signal state that prevents the position detection module from determining its position. The rejection cites Lemelson, Zellner and Moles, each of which show techniques related to preventing position from being detected.

Lemelson teaches a system which uses GPS to track an object, for example, when it has been stolen. The rejection points out that security may require a PIN; see for example column 4 beginning at line 48. The PIN must be capable of being entered remotely, since the person who stole the item would certainly not be expected to cooperate in entering the PIN.

Zellner teaches a network system that allows blocking a user from having their location monitored. As can be seen, the wireless network 210 includes a location blocking processor 206 which presumably could be used to block the determination of the location. Again, this requires remote access to the tracked device.

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Moles teaches a system in which a location privacy flag 272 can be set by entering data on the keypad. This prevents information from being sent.

In all of these systems, the information is acquired, but prevented from being sent. The rejection tacitly acknowledges this. Seiple is provided to show turning off the GPS receiver when in a standby mode. However, 1) using Seiple in a way that required turning off the GPS would destroy Seiple's intended function of being usable as an emergency location device, and 2) even if combined, the combination still would not suggest all the limitations of claims 1-8.

First of all, none of the cited references, that is not Lemelson, not Zellner and not Moles, teaches any reason why it might be advantageous to prevent the GPS information from ever being produced, as defined by claims 1-8. Each of these references simply teach preventing the information, which is already produced, from being sent. However, this leaves the possibility for example, for someone to obtain the information improperly. The only way to be really sure that the information is not sent, is to prevent it from being obtained in the first place.

Seiple certainly does not prevent the information from being obtained. In fact, any operation of Seiple that would prevent that information from being obtained, would destroy the inherent functionality of Seiple. Seiple is a system for use in emergency location of someone who falls overboard on a ship. Seiple teaches, and as well known, that if the GPS device were completely off, it could take some amount of time, for example 5 - 10 minutes, to obtain the initial GPS fix. Seiple is intended to be used in an emergency. It certainly could not wait 5 to 10 minutes. While it is certainly true that Seiple takes various steps to minimize the power, it is also true that Seiple inherently must have current GPS information, or else it could not operate as an emergency

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device - its intended purpose. In fact, note column 6, and specifically that expired almanac data is a "minor fault". Clearly Seiple teaches that GPS data is constantly being obtained. Battery consumption is monitored in Seiple, but Seiple is not prevented "from determining its position" at any time. In fact, if the position in Seiple is not current, it is considered a fault, see above.

Even if combined, therefore, the hypothetical combination of Lemelson, Zellner and Moles along with Seiple would teach a system that had the subject matter of Lemelson, Zellner and Moles, along with a Seiple type system that tries to maintain power, but always maintains at least some part of its position. There is no teaching or suggestion of a manual actuation that "prevents said position detection module from determining its position" as claimed. In fact, PREVENTING the position detection module from determining its position is exactly CONTRARY to Seiple's teaching. Therefore, claim 1 should be allowable over this hypothetical combination of prior art.

Claim 3 should be even further allowable. Claim 3 requires that a cellular phone be used, and that the action is "made to enhance the privacy". Nothing in Seiple could be combined with the primary references in the way that could be used to enhance the privacy, as claimed. Seiple teaches that the location data must ALWAYS be obtained. Enhancing privacy, as claimed, would expressly contradict Seiple's necessity to have current information, at all times.

Moreover, as described above, Seiple expressly teaches that the current position must always be known and obtained. It does not teach a mode in which a position of a cellular phone cannot be automatically detected. In fact, any attempt to prevent Seiple from automatically detecting its position would prevent Seiple from being used for its primary function: as a personal emergency location system.

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Therefore, claim 3 should be allowable along with the claims which depend therefrom.

Claims 4-6 define testing to determine whether the privacy is really been enhanced. This is nowhere taught or suggested by any of the cited prior art, in any form. Claim 4 defines testing to determine if privacy is enhanced. Claims 5 and 6 define aspects of this operation.

Claims 9-15 and 17-35 stand rejected as being anticipated individually by any of Lemelson, Zellner or Moles. Claim 9 has been amended to recite that the manual actuating mechanism is formed of a single button that is pressed to activate the position blocking control. This is a much more convenient and secure system than the system described by any of the cited prior art.

A problem with remote access as described by Lemelson and/or Zellner, however, is that someone can surreptitiously gain that remote access. In both of these systems, the control of receiving the position is by remote access. Control of privacy that is actually on the unit being controlled, in claim 9 a single button press, is more secure.

Lemelson requires remote control of the privacy using remotely entered PIN and certainly does not teach a local single button. Zellner teaches the wireless block being from a special network and again does not teach the local button.

Moles requires entering data through the keypad, and again does not teach or suggest the single button control that is defined by claim 9. The control of privacy using a single button press is much more convenient than Moles' use of data via a keyboard.

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Claim 10 has also been amended to recite that the privacy enhancement is formed by a press of the single button on the portable telephone. This is not taught or suggested by any of the cited prior art, and should be allowable thereover.

Claim 11 defines that the override control prevents the position detection module from determining its position. This is not shown in Lemelson, Zellner or Moles. In each of these systems, the data is determined, just not sent. Therefore, claim 11 is certainly not anticipated by any of the primary references.

Claims 17 defines an indicator that indicates whether the override control is in a state that prevents the report, claim 18 defines an optical indicator, and claim 19 defines that indicator being illuminated. None of the cited primary references in any way teach or suggest such an indicator. Lemelson is entirely silent about such an indicator. Zellner is similarly silent about such an indicator. Moles teaches that the data is entered on the telephone, but is silent about an indicator. Therefore, claims 17-19 are not disclosed by Lemelson, Zellner or Moles, and clearly, therefore, claims 17-19 are not anticipated thereby.

Claim 20 has been amended to recite that the position reporting control includes a manual button on the device that is pressed once to enhance security. This is not disclosed by Lemelson, Zellner or Moles, and therefore is not anticipated thereby.

Claim 22 specifies that the actuation prevents the module from determining its determined position, which is certainly not anticipated by the primary references and should be independently allowable.

Claims 26-27 define an indicator, which is not disclosed by the cited prior art, and hence is not anticipated by Lemelson, Zellner or Moles.

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Claim 28 defines, in addition to the position reporting control and the cellular telephone, "an optical indicator which produces an optical indication which indicates that said first specified actuation has been carried out, and that a privacy enhanced mode has been entered". As described above, none of the primary references teach anything about such an indicator. Therefore, claim 28 is not anticipated thereby.

Claim 29 is even further patentable, since it defines that the actuation prevents the position detection module from determining its position. As described above, this is not shown by Lemelson, Zellner or Moles, and therefore claim 29 clearly is not anticipated thereby.

Claim 31 has been amended to include the limitations of claims 32 and 33 therein. As amended, this requires that the second mode of operation prevents the position module from detecting the position. As described above, and as tacitly admitted in the office action, this is not disclosed in the Lemelson, Zellner or Moles. Therefore, this claim should be allowable thereover.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Therefore, for reasons stated above, it is respectfully suggested that all of the claim should be in condition for allowance. A formal notice to that effect is respectfully solicited.

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Respectfully submitted,

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